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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,403	12/28/2001	Nikolaus Schaller	1454.1204	8708

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EXAMINER

NGUYEN, QUYNH H

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 10/01/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/019,403

Applicant(s)

SCHALLER, NIKOLAUS

Examiner

Quynh H Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Remarks filed 6/25/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

2. Claims 10, 14, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al. (U.S. Patent 5,821,936) in view of Patent Abstract of Japan (Inventor: Sawada Toru; Application #: 09297214).

Regarding claim 10, Shaffer et al. teach the steps of: detecting each activation of a selection function (col. 3, lines 42-55 and col. 4, lines 15-16); evaluating a result of said detecting using a predetermined evaluation for determining at least one of infrequently used supplementary and selection functions (col. 4, lines 15-21 and lines 37-39); resequencing the order of menu items to place most frequently used options at the top and the infrequently used options at the end of the display presentation (col. 4, lines 40-50). However, Shaffer et al. do not suggest outputting reference text corresponding to the at least one of infrequently used selection functions based on said evaluating, but rather displaying the functions in the sequence according to frequent / infrequent used (col. 4, lines 40-44 col. 6, lines 55-56).

Toru teaches outputting reference text ("displays to the user a message") indicating that total value of use-frequencies exceeds a threshold (see Abstract).

It would have been obvious to one of ordinary skill in the art to modify Shaffer's system to outputting reference text on the display representation along with

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resequencing the order of menu items in order to introduce and explain to user<sup>s</sup> of infrequently used functions or used-frequencies exceed<sup>ing</sup> a threshold.

Regarding claims 14 and 18, Shaffer et al. teach comparing a predetermined reference value (Fig. 3, column 44 - "the original, or default, index") with the frequency of activation (col. 4, lines 15-21).

Claim 15 is rejected for the same reasons as discussed above with respect to claims 10 and 11. Furthermore, Shaffer et al. teach an input unit to activate at least one supplementary or selection function (col. 3, lines 42-55); and output unit (Fig. 1, 14).

3. Claims 11-13, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al. (U.S. Patent 5,821,936) in view of Patent Abstract of Japan (Inventor: Sawada Toru; Application #: 09297214) and further in view of Coulombe et al. (U.S. Patent 5,561,753).

Regarding claims 11 and 16, Shaffer et al. teach the electronic device is a telephone terminal with a display (telephone 10); a counter to detect the number of activations of the particular selection function (col. 4, lines 15-18). Shaffer et al. do not teach the evaluating includes determining a frequency of activation of the at least one of infrequently used functions in a predetermined period.

Coulombe et al. teach determining infrequently used functions in a predetermined period (col. 5, lines 10-13 - "a file has not been accessed within a selected period of time...should be relocated").

It would have been obvious to one of ordinary skill in the art to modify Shaffer's system to determine infrequently used functions in a predetermined period in order to improve the monitoring process.

Regarding claim 12, Shaffer et al. do not explicitly teach determining a trend of the frequency of activation in the predetermined period. Shaffer et al. teach learning and counting each selection of each option (see abstract and col. 2, lines 10-11). Coulombe et al. teach determining a trend of the frequency of activation in the predetermined period (col. 5, lines 14-21).

Regarding claims 13 and 17, Coulombe et al. teach determining a period that has elapsed since a most recent activation of the infrequently used functions (col. 5, lines 9-14).

### ***Response to Arguments***

4. Applicant's arguments filed 6/25/04 have been fully considered but they are not persuasive.

Applicant argues that neither Shaffer nor Toru teach or suggest features recited in the present application claims including addressing the problem of infrequently used functions (Remarks, page 2). Examiner respectfully submits that "addressing the problem of infrequently used functions" is not in the claims. Furthermore, Shaffer et al. teach displaying the infrequently used options at the end of the display presentation (col. 4, lines 40-44 and col. 6, lines 55-56). For example, in Figure 8, **displaying the text strings** for the least frequently used option "answering incoming call" at the end of the display presentation reads on claimed limitation "outputting reference text

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corresponding to the at least one of infrequently used supplementary and selection functions...”

Applicant argues that Shaffer does not teach or suggest a detection of each activation. Examiner respectfully disagrees. Shaffer et al. teach monitoring user selections (Fig. 2 and col. 4, lines 15-16). Furthermore, detection of each activation is necessary in order to learning and counting the selections, and rearranging menu items to provide a frequency –based order that presents the most often selected items before the less likely to be selected menu items.

Applicant argues that Shaffer et al. merely teach comparing a predetermined reference value with the frequency of activation. Since Shaffer et al. utilizes different method and algorithm for tracking frequency of selection, Shaffer et al. do not explicitly suggest comparing a predetermined reference value with the frequency of activation, but rather teach learning and counting each selection of each option (see Abstract and col. 2, lines 8-11) and tracking for frequency of selection (col. 2, lines 38-39).

Applicant argues that there is no motivation to modify Shaffer’s method for sequencing display menu items with Coulombe’s method for selecting a file has not been accessed within a selected period of time for relocating. Shaffer et al. teach rearranging menu items to provide a frequency –based order that presents the most often selected items before the less likely to be selected menu items. Coulombe teaches (col. 5, lines 10-13 - “a file has not been accessed within a selected period of time...should be relocated”). The combination of the two references teaches the claimed invention.

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Applicant argues that Coulombe does not teach determining a trend of the frequency of activation in the predetermined period. Shaffer et al. do not explicitly teach determining a trend of the frequency of activation in the predetermined period. Shaffer et al. teach learning and counting each selection of each option (see abstract and col. 2, lines 10-11) in order to determine the trend of the frequency of activation.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh H. Nguyen whose telephone number is 703-305-5451. The examiner can normally be reached on Monday - Thursday from 6:30 A.M. to 5:00 P.M.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

qhn

Quynh H. Nguyen  
September 29, 2004

  
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